



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Doctor S. M. Lister, Chairman
Texas Prison Board
Second National Bank Building
Houston, Texas

Dear Sir:

Opinion No. O-4138

Re: Does the Texas Prison Board have the legal right to refuse the described people admission to the Prison System for the purpose they desire?

You have requested our opinion on whether or not the Prison Board has the legal right to refuse certain persons admission to the Prison System for the purpose of making a private investigation of the affairs of the System. In order to do justice to the question, we deem it necessary to quote in full the statements of fact contained in your inquiry:

"There is a group of men going about the Prison System making what they term 'private investigation' as to the management of the System.

"Their method is to get a group of convicts off away from the farm officials and discuss with them the general management of the farm and the treatment of the prisoners. They wind up their investigation by asking the inmates if it is their desire that certain employees of the unit be discharged from the System. They also make talks to the prisoners as to how they think the System should be run and leave them with the assurance that there will be new faces at the unit soon. A procedure of this kind has a very demoralizing effect on

the prisoners and the personnel of the unit they visit, as the employees do not know whom they represent or the purpose of their visit.

"I should like to have you give me a ruling as to whether or not the Prison Board has the legal right to refuse these people admission to the Prison System for the purpose they desire. Please understand that the Prison Board has no objection whatever to an investigation if it is an official one; however, we do object to these people who have no connection whatever with the System or any State organization coming in and upsetting the morale of our inmates."

Among the laws now in force, relating to the conduct and management of the Texas Prison System, are the following statutes and parts of statutes found in Vernon's Revised Civil Statutes of 1925:

"Art. 6166g. Control of prison system

"The Texas Prison Board, together with the manager hereinafter provided for, shall be vested with the exclusive management and control of the Prison System, and all properties belonging thereto, subject only to the limitations of this Act, and shall be responsible for the management of the affairs of the Prison System and for the proper care, treatment, feeding, clothing and management of the prisoners confined therein."

"Art. 6166j. Manager's authority and pay

"The Texas Prison Board shall employ a general manager of the prison system, who shall possess qualifications and training which suit him to manage the affairs of a modern penal institution, and it shall be his duty to carry out the policies of the Texas Prison Board. The Board shall manage and control the prison system through the manager selected by it. * * *. The Board shall delegate to such manager authority to manage the affairs of the prison system, subject to its control and supervision. * * *. The manager, with the

consent of the Texas Prison Board, shall have power to prescribe reasonable rules and regulations governing the humane treatment, training and discipline of prisoners, and to make provision for the separation and classification of prisoners according to sex, color, age, health, corrigibility, and character of offense upon which the conviction of the prisoner was secured."

"Art. 6166x. Labor of prisoners

"Prisoners shall be kept at work under such rules and regulations as may be adopted by the manager with the Board's approval;
* * *."

"Art. 6166x2. Visitors admitted

"The Governor, and all other members of the Executive and Judicial Departments of the State and members of the Legislature shall be admitted into the prisons, camps and other places where prisoners are kept or worked, at all proper hours, for the purpose of observing the conduct thereof, and may hold conversation with the convicts apart from all prison officers. Other persons may visit the penitentiary under such rules and regulations as may be established." (Underlining ours)

We have quoted these statutory provisions for the purpose of presenting a fairly complete picture of the extent of the Prison Board's general powers with respect to the regulation and control of the Prison System. There are certain limitations on these powers, set out in the statutes relating to penitentiaries (Title 108, Vernon's Revised Civil Statutes of 1925), but none of them restrict the Board's power in the matter complained of.

You state that the persons who have undertaken a "private investigation" of the Prison System, advising the prisoners "as to how the System should be run," and assuring them "that there will be new faces at the unit soon," have no connection whatever with the System or any State organization. It does not

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take a student of penology to see the inherent evils in such a junket. Article 6166z2, above quoted, taken in connection with the other statutes cited, gives the Prison Board authority to stop it. No more authority is needed.

It is therefore our opinion that the Texas Prison Board has the legal right to refuse such persons admission to the Prison System for the purposes stated in the quoted portion of your letter.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

/s/

W. R. Allen
Assistant

Approved Dec 30 1941

/s/ Grever Sellers
First Assistant
Attorney General

Approved: Opinion Committee
By BWE, Chairman

WRA:RS

O. K.: BW